

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6368 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

GANGABEN R PATEL WD/O RAMABHAI PATEL

Versus

COMPETENT AUTHORITY AND ADDL COLLECTOR

Appearance:

Shri M.C.Bhatt, Advocate, for the Petitioners.

Shri T.H.Sompura, Assistant Government Pleader, for the Respondents.

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 13/09/96

ORAL JUDGEMENT

The decision contained in the communication of

3rd June 1996 emanating from the Deputy Collector at Vadodara (respondent No.2 herein) to the effect that the application for what is popularly known as the N.A.Permission made by the petitioners on 17th May 1996 cannot be accepted is under challenge in this petition under Article 226 of the Constitution of India. Its copy is at Annexure-D to this petition.

2. The ground given for return of the petitioners' application for the N.A.Permission is that the time-limit for complying with condition No.1 in the order passed by the Competent Authority at Vadodara (respondent No.1 herein) on 18th April 1995 is over. It appears that the petitioners obtained the permission under Section 21 (1) of the Urban Land (Ceiling and Regulation) Act, 1976 (the Ceiling Act for brief) by the order passed on 18th April 1995. Its copy is at Annexure-A to this petition. It transpires therefrom that the said permission has been granted on certain terms and conditions. Condition No.1 inter alia requires the landholders to commence the construction activity within one year from the date of the order. In its ruling in the case of KANAIYALAL MANEKLAL SHETH v. COMPETENT AUTHORITY reported in AIR 1994 Gujarat at page 130, this court has held that the Competent Authority has no power to impose any such condition requiring the landholder to commence the construction activity within one year from the date of the order granting permission under Section 21 (1) of the Ceiling Act. In fact, after that judgment, no Competent Authority should impose any such condition in the order granting permission under the aforesaid statutory provision. Even if such permission order contains any such condition, it has to be ignored in view of the aforesaid ruling of this court. It needs no telling that a ruling of this court is binding to all courts, tribunals and authorities within the State of Gujarat.

3. It transpires from the material on record that the petitioners have obtained the Development Permission under the relevant provisions contained in Section 29 of the Gujarat Town Planning and Urban Development Act, 1976 (the TP Act for brief). Its copy is at Annexure-B to this petition. In its ruling in the case of KARIMBHAI KALUBHAI BELIM v. STATE OF GUJARAT reported in 1996 (1) 37 (1) Gujarat Law Reporter at page 659, this court has held that, in view of Section 117 of the TP Act, no N.A.Permission under Section 65 of the Bombay Land Revenue Code, 1879 would be necessary or required to be taken once the Development Permission under Section 29 of the TP Act is obtained. In that view of the matter, it was not necessary for the petitioners to have applied for

the N.A.Permission. Return of the application for the N.A.Permission by the communication at Annexure-D to this petition though on different grounds need not be interfered with at this stage. What the petitioners should do is to make an application to the concerned authority, respondent No.2 in the instant case, for fixation of the N.A.Assessment pointing out in the application itself that the Development Permission under Section 29 of the TP Act has been obtained and the condition regarding commencement of the construction activity within any stipulated time-limit, if incorporated in the order of permission under Section 21 (1) of the Ceiling Act, is not binding in view of the aforesaid ruling of this court in the case of KANAIYALAL MANEKLAL (supra). It would be desirable on the part of the petitioners to annexe with such application the necessary documents to facilitate the task of the addressee of the application.

4. Learned Advocate Shri M.C.Bhatt for the petitioners states that the necessary application for fixation of the N.A.Assessment will be made to respondent No.2 within a fortnight from today. Learned Assistant Government Pleader Shri Sompura for the respondents states that respondent No.2 herself is present. It is obvious that an application for the N.A.Permission will not be insisted upon by or on behalf of respondent No.2 if it is brought to her notice that the necessary Development Permission under Section 29 of the TP Act has been obtained by the applicant or applicants as the case may be. As and when such application is made by or on behalf of the petitioners for fixation of the N.A.Assessment, respondent No.2 shall endeavour to fix the N.A.Assessment as expeditiously as possible preferably within four weeks from its date.

5. In view of the aforesaid directions given hereinabove, this petition stands disposed of as withdrawn at the instance of learned Advocate Shri M.C.Bhatt for the petitioners. Rule is accordingly discharged with no order as to costs. The ad-interim relief stands vacated.

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